

amendment and it includes changing the word "none" to a fine of \$100 and changing a Class III misdemeanor to a Class II misdemeanor and the third one to change from a Class I misdemeanor to a Class IV felony. Now are you telling me that if these changes were made, the judge still has latitude? Is that what you are saying?

SENATOR SCHMIT: Well, that I have not read the second amendment but I am sure there is latitude in that amendment. But certainly in the first amendment, it says the sentence shall not be more than six months so it may be as little as a few days or it could be as much as six months. Also the imposition of the fine could be at the discretion of the judge and that could be a very discretionary, in some instances.

SENATOR MARVEL: Could I ask one other question?

SENATOR SCHMIT: Yes.

SENATOR MARVEL: Are you and Senator Barnett and others who are working on this in favor of penalties that are specific or are you in favor of giving latitude to the judicial branch or do we have to give latitude to the judicial branch?

SENATOR SCHMIT: Inasmuch as is possible, Senator Marvel, I believe in trying to be specific because the latitude that we have given the judiciary, in many instances, has worked to the detriment of the defendant and has not been, in my estimation, the kind of situation which would discourage criminal activity.

SENATOR MARVEL: Thank you, sir.

PRESIDENT: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, may I ask Senator Venditte a question, please. I notice in your amendment, and correct me if I am wrong, if I understand this wrong, Senator Venditte, you have one pound or less should be a Class II felony and one pound or more a Class IV felony. Is this what you really mean or do you mean for those to be transposed?

SENATOR VENDITTE: No, in the Class IV felony, I assume that any time any person is possessing one pound or more of marijuana, it is rather clear to me what the intent is of that person and that is simply to sell and distribute it and I think the penalty should be even more severe for the pusher.

SENATOR NICHOL: Maybe I misunderstand what a Class IV and a Class II felony are but I understand a Class II felony is from one to fifty years and a Class IV is from one to five years, is that what you understand or do we have a misunderstanding between a Class II and a Class IV felony?

SENATOR VENDITTE: A Class II felony is 50 years, minimum one year and a Class IV felony a maximum of five years and a \$10,000 fine and/or both.

SENATOR NICHOL: A maximum of five but a minimum of nothing?